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SENATE BILL 615

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO THE PRACTICE OF MEDICINE; PROVIDING FOR
COLLABORATION BETWEEN A PHYSICIAN ASSISTANT AND PHYSICIAN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-6-6 NMSA 1978 (being Laws 1973,
Chapter 361, Section 1, as amended) is amended to read:

"61-6-6. DEFINITIONS.--As used in Chapter 61, Article 6
NMSA 1978:

A. "approved postgraduate training program" means a
program approved by the accrediting council ~~[on]~~ for graduate
medical education of the American medical association or by the
board;

B. "board" means the New Mexico medical board;

C. "collaboration" means the working relationship
between a physician who supervises a physician assistant in the

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1 delivery of patient care;

2 [G-] D. "licensed physician" means a medical doctor
3 licensed under the Medical Practice Act to practice medicine in
4 New Mexico;

5 [D-] E. "licensee" means a medical doctor,
6 physician assistant, polysomnographic technologist,
7 anesthesiologist assistant or naprapath licensed by the board
8 to practice in New Mexico;

9 [E-] F. "medical college or school in good
10 standing" means a board-approved medical college or school that
11 has as high a standard as that required by the association of
12 American medical colleges and the council on medical education
13 of the American medical association;

14 [F-] G. "medical student" means a student enrolled
15 in a board-approved medical college or school in good standing;

16 [G-] H. "physician assistant" means a health
17 professional who is licensed by the board to practice as a
18 physician assistant and who provides services to patients
19 [~~under the supervision and direction of~~] in collaboration with
20 a licensed physician;

21 [H-] I. "intern" means a first-year postgraduate
22 student upon whom a degree of doctor of medicine and surgery or
23 equivalent degree has been conferred by a medical college or
24 school in good standing;

25 [I-] J. "resident" means a graduate of a medical

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1 college or school in good standing who is in training in a
2 board-approved and accredited residency training program in a
3 hospital or facility affiliated with an approved hospital and
4 who has been appointed to the position of "resident" or
5 "fellow" for the purpose of postgraduate medical training;

6 [~~J.~~] K. "the practice of medicine" consists of:

7 (1) advertising, holding out to the public or
8 representing in any manner that one is authorized to practice
9 medicine in this state;

10 (2) offering or undertaking to administer,
11 dispense or prescribe a drug or medicine for the use of another
12 person, except as authorized pursuant to a professional or
13 occupational licensing statute set forth in Chapter 61 NMSA
14 1978;

15 (3) offering or undertaking to give or
16 administer, dispense or prescribe a drug or medicine for the
17 use of another person, except as directed by a licensed
18 physician;

19 (4) offering or undertaking to perform an
20 operation or procedure upon a person;

21 (5) offering or undertaking to diagnose,
22 correct or treat in any manner or by any means, methods,
23 devices or instrumentalities any disease, illness, pain, wound,
24 fracture, infirmity, deformity, defect or abnormal physical or
25 mental condition of a person;

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1 (6) offering medical peer review, utilization
2 review or diagnostic service of any kind that directly
3 influences patient care, except as authorized pursuant to a
4 professional or occupational licensing statute set forth in
5 Chapter 61 NMSA 1978; or

6 (7) acting as the representative or agent of a
7 person in doing any of the things listed in this subsection;

8 [~~K-~~] L. "the practice of medicine across state
9 lines" means:

10 (1) the rendering of a written or otherwise
11 documented medical opinion concerning diagnosis or treatment of
12 a patient within this state by a physician located outside this
13 state as a result of transmission of individual patient data by
14 electronic, telephonic or other means from within this state to
15 the physician or the physician's agent; or

16 (2) the rendering of treatment to a patient
17 within this state by a physician located outside this state as
18 a result of transmission of individual patient data by
19 electronic, telephonic or other means from within this state to
20 the physician or the physician's agent;

21 [~~H-~~] M. "sexual contact" means touching the primary
22 genital area, groin, anus, buttocks or breast of a patient or
23 allowing a patient to touch another's primary genital area,
24 groin, anus, buttocks or breast in a manner that is commonly
25 recognized as outside the scope of acceptable medical practice;

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1 [M-] N. "sexual penetration" means sexual
2 intercourse, cunnilingus, fellatio or anal intercourse, whether
3 or not there is any emission, or introducing any object into
4 the genital or anal openings of another in a manner that is
5 commonly recognized as outside the scope of acceptable medical
6 practice; and

7 [N-] O. "United States" means the fifty states, its
8 territories and possessions and the District of Columbia."

9 SECTION 2. Section 61-6-7 NMSA 1978 (being Laws 1973,
10 Chapter 361, Section 3, as amended) is amended to read:

11 "61-6-7. SHORT TITLE--LICENSURE AS A PHYSICIAN
12 ASSISTANT--SCOPE OF PRACTICE--BIENNIAL REGISTRATION OF
13 SUPERVISION--LICENSE RENEWAL--FEES.--

14 A. Sections 61-6-7 through 61-6-10 NMSA 1978 may be
15 cited as the "Physician Assistant Act".

16 B. The board may license as a physician assistant a
17 qualified person who has graduated from a physician assistant
18 [~~or surgeon assistant~~] program accredited by the national
19 accrediting body as established by rule and has passed a
20 physician assistant national certifying examination as
21 established by rule. The board may also license as a physician
22 assistant a person who passed the physician assistant national
23 certifying examination administered by the national commission
24 on certification of physician assistants prior to 1986.

25 C. A person shall not perform, attempt to perform

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1 or hold ~~[himself]~~ the person's own self out as a physician
2 assistant without first applying for and obtaining a license
3 from the board ~~[and without registering his supervising~~
4 ~~licensed physician in accordance with board rules]~~.

5 D. Physician assistants may prescribe, administer
6 and distribute dangerous drugs other than controlled substances
7 in Schedule I of the Controlled Substances Act pursuant to
8 rules adopted by the board after consultation with the board of
9 pharmacy if the prescribing, administering and distributing are
10 done ~~[under the direction of a supervising]~~ in collaboration
11 with a licensed physician ~~[and within the parameters of a~~
12 ~~board-approved formulary and guidelines established under~~
13 ~~Subsection C of Section 61-6-9 NMSA 1978]~~. The distribution
14 process shall comply with state laws concerning prescription
15 packaging, labeling and recordkeeping requirements. ~~[Physician~~
16 ~~assistants shall not otherwise dispense dangerous drugs or~~
17 ~~controlled substances.]~~

18 E. A physician assistant shall perform ~~[only the~~
19 ~~acts and duties assigned to the physician assistant by a~~
20 ~~supervising licensed physician that are within the scope of~~
21 ~~practice of the supervising]~~ medical services in collaboration
22 with a licensed physician.

23 F. An applicant for licensure as a physician
24 assistant shall complete application forms supplied by the
25 board and shall pay a licensing fee as provided in Section

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1 61-6-19 NMSA 1978.

2 G. A physician assistant shall biennially submit
3 proof of current certification by the national commission on
4 certification of physician assistants and shall renew the
5 license and registration of supervision of the physician
6 assistant with the board. Applications for licensure or
7 registration of supervision shall include the applicant's name,
8 current address, the name and office address of the
9 ~~[supervising]~~ collaborating licensed physician and other
10 additional information as the board deems necessary.

11 H. ~~[Before starting work, a physician assistant~~
12 ~~shall ensure that the supervising licensed physician of the~~
13 ~~physician assistant is registered by the board.]~~ The license
14 of a physician assistant shall only be valid when the physician
15 assistant works ~~[under the supervision of]~~ in collaboration
16 with a board-registered licensed physician. Such collaboration
17 shall be documented and the documentation kept on file at the
18 practice site and made available to the board on request.

19 I. Each biennial renewal of licensure shall be
20 accompanied by a fee as provided in Section 61-6-19 NMSA 1978."

21 SECTION 3. Section 61-6-9 NMSA 1978 (being Laws 1973,
22 Chapter 361, Section 5, as amended) is amended to read:

23 "61-6-9. PHYSICIAN ASSISTANTS--RULES.--The board may
24 adopt and enforce reasonable rules for:

25 A. education, skill and experience for licensure of

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1 a person as a physician assistant and providing forms and
2 procedures for biennial licensure [~~and registration of~~
3 ~~supervision by a licensed physician~~];

4 B. examining and evaluating an applicant for
5 licensure as a physician assistant as to skill, knowledge and
6 experience of the applicant in the field of medical care;

7 C. establishing when and for how long physician
8 assistants are permitted to prescribe, administer, dispense and
9 distribute dangerous drugs other than controlled substances in
10 Schedule I of the Controlled Substances Act pursuant to rules
11 adopted by the board after consultation with the board of
12 pharmacy;

13 [~~D. allowing a supervising licensed physician to~~
14 ~~temporarily delegate supervisory responsibilities for a~~
15 ~~physician assistant to another licensed physician~~];

16 [~~E. allowing a physician assistant to temporarily~~
17 ~~serve under the supervision of a licensed physician other than~~
18 ~~the supervising licensed physician of record~~]; and

19 [~~F.~~] D. carrying out all other provisions of the
20 Physician Assistant Act."

21 SECTION 4. Section 61-6-10 NMSA 1978 (being Laws 1973,
22 Chapter 361, Section 6, as amended) is amended to read:

23 "61-6-10. [~~SUPERVISING~~] LICENSED PHYSICIAN COLLABORATING
24 WITH A PHYSICIAN ASSISTANT--RESPONSIBILITY.--

25 A. [~~As a condition of licensure, all physician~~

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1 ~~assistants practicing in New Mexico shall inform the board of~~
2 ~~the name of the licensed physician under whose supervision they~~
3 ~~will practice.] All [supervising] physicians collaborating with~~
4 ~~a physician assistant shall be licensed under the Medical~~
5 ~~Practice Act [and shall be approved by the board].~~

6 B. Every licensed physician [supervising]
7 collaborating with a licensed physician assistant shall be
8 individually responsible and liable for the performance of the
9 acts and omissions delegated to the physician assistant.
10 Nothing in this section shall be construed to relieve the
11 physician assistant of responsibility and liability for the
12 acts and omissions of the physician assistant.

13 C. A physician assistant shall [~~be supervised by~~]
14 collaborate with a physician [~~as approved by the board~~]."

15 SECTION 5. Section 61-6-17 NMSA 1978 (being Laws 1973,
16 Chapter 361, Section 8, as amended) is amended to read:

17 "61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act
18 shall not apply to or affect:

- 19 A. gratuitous services rendered in cases of
20 emergency;
- 21 B. the domestic administration of family remedies;
- 22 C. the practice of midwifery as regulated in this
23 state;
- 24 D. commissioned medical officers of the armed
25 forces of the United States and medical officers of the United

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1 States public health service or [~~the veterans administration~~
2 ~~of~~] the United States department of veterans affairs in the
3 discharge of their official duties or within federally
4 controlled facilities; provided that such persons who hold
5 medical licenses in New Mexico shall be subject to the
6 provisions of the Medical Practice Act and provided that all
7 such persons shall be fully licensed to practice medicine in
8 one or more jurisdictions of the United States;

9 E. the practice of medicine by a physician,
10 unlicensed in New Mexico, who performs emergency medical
11 procedures in air or ground transportation on a patient from
12 inside of New Mexico to another state or back, provided the
13 physician is duly licensed in that state;

14 F. the practice, as defined and limited under their
15 respective licensing laws, of:

- 16 (1) osteopathy;
- 17 (2) dentistry;
- 18 (3) podiatry;
- 19 (4) nursing;
- 20 (5) optometry;
- 21 (6) psychology;
- 22 (7) chiropractic;
- 23 (8) pharmacy;
- 24 (9) acupuncture and oriental medicine; or
- 25 (10) physical therapy;

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1 G. an act, task or function performed by a
2 physician assistant [~~at the direction of and under the~~
3 ~~supervision of~~] in collaboration with a licensed physician,
4 when:

5 (1) the physician assistant is currently
6 licensed by the board;

7 (2) the act, task or function is performed at
8 the direction of and [~~under the supervision of~~] in
9 collaboration with a licensed physician in accordance with
10 rules promulgated by the board; and

11 (3) the acts of the physician assistant are
12 [~~within the scope of duties assigned or delegated by the~~
13 ~~supervising~~] in collaboration with a licensed physician and the
14 acts are within the scope of the assistant's training;

15 H. an act, task or function of laboratory
16 technicians or technologists, x-ray technicians, nurse
17 practitioners, medical or surgical assistants or other
18 technicians or qualified persons permitted by law or
19 established by custom as part of the duties delegated to them
20 by:

21 (1) a licensed physician or a hospital, clinic
22 or institution licensed or approved by the public health
23 division of the department of health or an agency of the
24 federal government; or

25 (2) a health care program operated or financed

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1 by an agency of the state or federal government;

2 I. a properly trained medical or surgical assistant
3 or technician or professional licensee performing under the
4 physician's employment and direct supervision or a visiting
5 physician or surgeon operating under the physician's direct
6 supervision a medical act that a reasonable and prudent
7 physician would find within the scope of sound medical judgment
8 to delegate if, in the opinion of the delegating physician, the
9 act can be properly and safely performed in its customary
10 manner and if the person does not hold [~~himself~~] the person's
11 own self out to the public as being authorized to practice
12 medicine in New Mexico. The delegating physician shall remain
13 responsible for the medical acts of the person performing the
14 delegated medical acts;

15 J. the practice of the religious tenets of a church
16 in the ministration to the sick or suffering by mental or
17 spiritual means as provided by law; provided that the Medical
18 Practice Act shall not be construed to exempt a person from the
19 operation or enforcement of the sanitary and quarantine laws of
20 the state;

21 K. the acts of a physician licensed under the laws
22 of another state of the United States who is the treating
23 physician of a patient and orders home health or hospice
24 services for a resident of New Mexico to be delivered by a home
25 and community support services agency licensed in this state;

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1 provided that a change in the condition of the patient shall be
2 physically reevaluated by the treating physician in the
3 treating physician's jurisdiction or by a licensed New Mexico
4 physician;

5 L. a physician licensed to practice under the laws
6 of another state who acts as a consultant to a New Mexico-
7 licensed physician on an irregular or infrequent basis, as
8 defined by rule of the board; and

9 M. a physician who engages in the informal practice
10 of medicine across state lines without compensation or
11 expectation of compensation; provided that the practice of
12 medicine across state lines conducted within the parameters of
13 a contractual relationship shall not be considered informal and
14 is subject to licensure and rule by the board."

15 SECTION 6. Section 61-6-19 NMSA 1978 (being Laws 1989,
16 Chapter 269, Section 15, as amended) is amended to read:

17 "61-6-19. FEES.--

18 A. The board shall impose the following fees:

19 (1) an application fee not to exceed four
20 hundred dollars (\$400) for licensure by endorsement as provided
21 in Section 61-6-13 NMSA 1978;

22 (2) an application fee not to exceed four
23 hundred dollars (\$400) for licensure by examination as provided
24 in Section 61-6-11 NMSA 1978;

25 (3) a triennial renewal fee not to exceed four

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1 hundred fifty dollars (\$450);

2 (4) a fee of twenty-five dollars (\$25.00) for
3 placing a physician's license or a physician assistant's
4 license on inactive status;

5 (5) a late fee not to exceed one hundred
6 dollars (\$100) for physicians who renew their license within
7 forty-five days after the required renewal date;

8 (6) a late fee not to exceed two hundred
9 dollars (\$200) for physicians who renew their licenses between
10 forty-six and ninety days after the required renewal date;

11 (7) a reinstatement fee not to exceed six
12 hundred dollars (\$600) for reinstatement of a revoked,
13 suspended or inactive license;

14 (8) a reasonable administrative fee for
15 verification and duplication of license or registration and
16 copying of records;

17 (9) a reasonable publication fee for the
18 purchase of a publication containing the names of all
19 practitioners licensed under the Medical Practice Act;

20 (10) an impaired physician fee not to exceed
21 one hundred fifty dollars (\$150) for a three-year period;

22 (11) an interim license fee not to exceed one
23 hundred dollars (\$100);

24 (12) a temporary license fee not to exceed one
25 hundred dollars (\$100);

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1 (13) a postgraduate training license fee not
2 to exceed fifty dollars (\$50.00) annually;

3 (14) an application fee not to exceed one
4 hundred fifty dollars (\$150) for physician assistants applying
5 for initial licensure;

6 (15) a licensure fee not to exceed one hundred
7 fifty dollars (\$150) for physician assistants biennial
8 licensing [~~and registration of supervising licensed physician~~];

9 (16) a late fee not to exceed fifty dollars
10 (\$50.00) for physician assistants who renew their licensure
11 within forty-five days after the required renewal date;

12 (17) a late fee not to exceed seventy-five
13 dollars (\$75.00) for physician assistants who renew their
14 licensure between forty-six and ninety days after the required
15 renewal date;

16 (18) a reinstatement fee not to exceed one
17 hundred dollars (\$100) for physician assistants who reinstate
18 an expired license;

19 [~~(19) a processing fee not to exceed fifty~~
20 ~~dollars (\$50.00) for each change of a supervising licensed~~
21 ~~physician for a physician assistant;~~

22 ~~(20)]~~ (19) a fee not to exceed three hundred
23 dollars (\$300) annually for a physician supervising a clinical
24 pharmacist;

25 [~~(21)]~~ (20) an application and renewal fee for

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1 a telemedicine license not to exceed four hundred dollars
2 (\$400);

3 [~~(22)~~] (21) a reasonable administrative fee,
4 not to exceed the current cost of application for a license,
5 that may be charged for reprocessing applications and renewals
6 that include minor but significant errors and that would
7 otherwise be subject to investigation and possible disciplinary
8 action; and

9 [~~(23)~~] (22) a reasonable fee as established by
10 the department of public safety for nationwide and statewide
11 criminal history screening of applicants and licensees.

12 B. All fees are nonrefundable and shall be used by
13 the board to carry out its duties efficiently."